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EXAMINER

BUI, LUAN KIM

ART UNIT PAPER NUMBER

3728

DATE MAILED: 10/08/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,571

Applicant(s)

STONER ET AL.

Examiner

Luan K Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3 is/are allowed.
- 6) ☒ Claim(s) 4-8, 11-27 and 29-31 is/are rejected.
- 7) ☒ Claim(s) 9, 10 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4-6, 11, 12, 14-18, 20-23, 29 and 31 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Berkowitz (4,202,451; hereinafter Berkowitz'451) in view of Beaty (5,642,841). Berkowitz'451 discloses a holder comprising a container (31) having an opening and inside walls (33-36), a closure (51) releasably openable relative to the container and adapted to cover the opening, a hanger support (14) disposed inside the container and a hanger (11) mountable relative to the support to provide an open region between the hanger and at least one of the inside walls of the container. The hanger is configured to be mountable onto and removable from the hanger support (Figures 1-5). Berkowitz'451 also discloses the other claimed limitations except for the hanger comprises at least one retainer being disposed along the hanger intermediate ends of the hanger. Beaty teaches a hanger (10) comprising a support bar (12-26) having at least one retainer (32) disposed along the hanger intermediate ends (20, 22) of the hanger for better securing a belt or tie along the hanger. It would have been obvious to one having ordinary skill in the art in view of Beaty to modify the hanger of Berkowitz'451 so the hanger comprises a support bar with at least one retainer disposed along the hanger intermediate ends of the hanger for better securing an article and also to prevent the article from sliding displacement of the article along the hanger. As to claims 5, 6, 21 and 22, Berkowitz'451 discloses the closure (51) is hingeably/pivotally connected to the container (column 5, lines 9-

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11). As to claims 11 and 12, the hanger of Berkowitz'451 as modified comprises a plurality of fingers (32) spaced therealong and the fingers are adapted to retain the articles. As to claim 14, Berkowitz'451 discloses the open region between the hanger and the inside wall of the container opposite the opening (Figure 4). As to claim 15, Berkowitz'451 discloses the container comprises a front and a rear (51, 52) and the opening is provided on the front generally opposite the rear of the container to define a depth therebetween. As to claim 16, Berkowitz'451 discloses the hanger comprises a rod having a thickness less than the depth of the container. As to claim 17, Berkowitz'451 discloses the open region between the hanger and the rear of the container when the hanger is mountable on the hanger support.

3. Claims 7, 8 and 24 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 4 and 20 above, and further in view of Berkowitz (2,054,764; hereinafter Berkowitz'764). Berkowitz'451 further fails to show a fastener being mounted externally to the container to fasten the closure to the container. Berkowitz'764 discloses a holder comprising a container (10) having an opening (16) and inside walls (11-13), a closure (17) releasably openable relative to the container and adapted to cover the opening, and a fastener (19', 20, 21) mounted externally to the container to fasten the closure to the container. It would have been obvious to one having ordinary skill in the art in view of Berkowitz'764 to modify the container of Berkowitz'451 so it includes a fastener is mounted externally to the container to fasten the closure to the container for better securing the closure to the container and for better protecting articles within the container.

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4. Claims 13, 19, 25-27 and 30 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 4 and 20 above, and further in view of Jackson (5,628,398). Berkowitz'451 further fails to show the hanger support comprises a hook. Jackson suggests a container (102) comprising at least two hanger supports (124, 128, 136) with each hanger support having a hook for supporting a hanger and a handle for carrying the container (Figures 1-2). It would have been obvious to one having ordinary skill in the art in view of Jackson to modify the hanger support of Berkowitz'451 so the hanger support comprises a hook to facilitate hanging the hanger and also the selection of the specific hanger support such as a support rod of Berkowitz'451 or the hook of Jackson would have been an obvious matter of design choice of art recognized equivalent support inasmuch as a number of different ones appear to be suitable. As to claims 25-27, it would have been obvious to one having ordinary skill in the art in view of Jackson to modify the hanger support of Berkowitz'451 so the hanger support comprises at least two support mounts for better securing the hanger to the support mounts.

Allowable Subject Matter

5. Claims 1-3 are allowed.

6. Claims 9, 10 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to the rejected claims have been considered but are deemed to be moot in view of the new grounds of rejection.

In response to applicant's argument that Berkowitz'451 or Berkowitz'764 is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the hanger of Berkowitz'451 or Berkowitz'764 is capable of holding ornaments. Furthermore, the "ornaments" as argued by Applicant is not positively recited in combination with the holder as claimed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (703) 305-5861. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to TC 3700 Customer Service at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 872-9301. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb
September 17, 2003



Luan K. Bui
Primary Examiner